

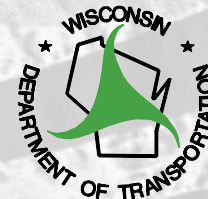


PLAIN DEALING

A policy and administrative bulletin for licensed dealers from the Dealer Section of the WisDOT Division of Motor Vehicles

**“Nothing astonishes men so much as
common sense and plain dealing.”**

R.W. Emerson



Whose franchise law is it anyway?

Proponents of dealer franchise laws routinely cite consumer protection as the main reason for continued enforcement of this law. Many critics argue that dealer franchise laws create barriers to entry of this market that go beyond consumer protection. The Federal Trade Commission recently came out and criticized franchise laws, calling them anti-competitive and bad for consumers. One thing that most dealers, regulators and consumers can agree upon is the need for certain amounts of consumer protection. Disclosure requirements and minimum licensing standards are good for both consumers and the industry as a whole. But arguments can be made on both sides of the franchise law debate. Are franchise laws good for both dealers and consumers?

One would think that most new car dealers are proponents of franchise laws and would not do anything to jeopardize them. Sometimes we wonder, especially considering recent actions by some new car dealers. In recent months Dealer Section investigators uncovered a number of serious franchise violations. We have always taken a firm stance on franchise violations, and will continue to do so. While we are concerned about the violations we see from some of the used vehicle dealers, we are especially concerned about violations from some of the new vehicle dealers. We recently had a large well-respected franchise dealer sell a vehicle that they were not franchised to sell. If employees of new car dealers are violating the franchise law we have a serious problem.

We saw recently dealers moving and selling vehicles between multiple locations. This is acceptable as long as each location has the appropriate franchise. One common mistake we see involves a dealer group offering vehicles at its different licensed locations without the appropriate franchise, or using one location to market vehicles for another location. This can be tricky, because it does not take much to engage in the act of “selling”. You cannot solicit customers at one location for the new car inventory of another location, unless both locations have the same franchise.

Another recent trend is dealers displaying a hot new model on their lots to generate traffic and interest, but of a make that the dealer is clearly not franchised for. The new Mini Cooper is the latest example. Only one dealer in the state currently holds the franchise for Mini Coopers, yet we are finding them everywhere in the state, and they are not “Used” under the definition in Trans 137, Wis. Adm. Code.

Wisconsin dealer laws were first written back in the 1930’s and 1940’s by dealers.

Continued on page 3

Routing label

- ☐ General Manager
- ☐ Sales Manager
- ☐ Business / F&I Manager
- ☐ Office Manager
- ☐ Title Clerk
- ☐ Sales staff

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We welcome your questions and comments. Address correspondence to Adam Boardman, editor, Plain Dealing, DOT Dealer Section, Madison, WI 53707-7909, Fax to 608.267.0323 or email: dealers.dmv@dot.state.wi.us

Dealer Section Contacts

Do you know who to contact when you have a problem? The Dealer Section has a number of new investigators and customer service specialists working to assist you with all of your licensing needs. Please do not hesitate to contact us so that we can help you continue doing business the right way.

Tom Rastall—Area 1

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(608)789-4634
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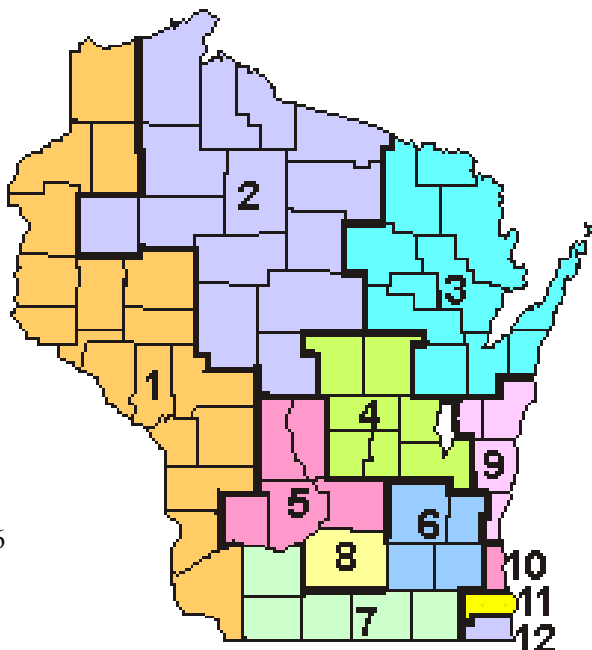
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Dealer Section Investigator Territory Map



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Below are your Madison contacts:

Please contact us with any questions:
WisDOT DMV Dealer Section
4802 Sheboygan Avenue, Room 806
Madison, WI 53707-7909
Phone: (608) 266-1425
Fax: (608) 267-0323
Email: dealers.dmv@dot.state.wi.us

Your customer service representatives are assigned alphabetically based on your licensed business name.

A-CAQ	Marie Gollon	marie.gollon@dot.state.wi.us
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News

Franchise—*continued from front page*

Louis Milan, Gary Williams' predecessor at the Wisconsin Auto and Truck Dealers Association wrote most of Chapter 218, which, at the time, dealt mainly with dealer licensing, keeping out the fly-by-nighters, leveling the playing field, and protecting dealers' interests through strong franchise laws.

Remember, selling new motor vehicles without the appropriate franchise agreement is grounds for suspension or revocation of a dealer license. Do not put your business in jeopardy. This is your law and it protects you. Don't be your own worst enemy. Respect it.

Vehicles sold via the Internet

There are not as many firms attempting to sell vehicles via the Internet as there were two or three years ago, but there are some companies still operating in the field. While many of the direct-to-consumer online sellers have struggled, one firm that seems to have prospered is eBay Motors. eBay is an online auto auction and does not sell vehicles directly to consumers, nor does it sell leads. According to Joe Sullivan of eBay Motors, "eBay differs from most online retail Web sites in that eBay does not directly sell merchandise, but instead offers to its community of users the opportunity to list items for sale on a Web site hosted by the company, where those items can be viewed and purchased by other members of the community."

A fair number of dealers are looking to supplement their "brick-and-mortar" business with Internet technologies. Many dealers are placing general information on a company Web site. A Web site can advertise the dealership itself, types of vehicles offered, and special offers. Some dealers are taking the next step and actually using the Internet to sell vehicles.

We encourage the use of Internet technologies to supplement your business. Using the Internet, and Web sites such as eBay

is OK, however, these activities are still governed by Wisconsin law. A vehicle sold via the Internet must still have a purchase contract completed. A used vehicle must still have the Wisconsin Buyers Guide. Anything posted on a Web site is still subject to advertising laws. So, use the Internet, but don't assume that different rules apply, because they do not.

Importance of manufacturer's suggested retail price labels. Wisconsin law says that the MSRP needs to be affixed to the vehicle until sold. This law does not permit dealers to alter the document, or its size, for any reason. If the label is on a convertible or coupe, and visibility while driving appears to be a safety concern, the label may be removed while driven. Once parked the label must be replaced immediately.

Plain Dealing now available electronically. In an effort to better distribute this newsletter, we are now emailing it to those of you that so desire. Simply send us an email at dealers.dmv@dot.state.wi.us, and we will add your email address to the electronic mailing list.

ATK plate format has changed. Wisconsin auto plates start with three numbers followed by three alpha characters (example 222AAA). While old ATK plates had two letters and five numbers (example AB12-345), the new ATK plates have six numbers (example 123-456). The ATK plates have the weight designated by an A, B, or C weight sticker which is applied to the rear plate, on the left side. Since the rollout of the new ATK format a large number of dealers have quit putting the first two letters on the old ATK plates. When submitting an application to transfer an ATK plate it is important to take notice of the plate being transferred. While the format on new plates being issued has changed, it is important to continue transferring the old style plate using the old format.

And the winner is...



Pictured above, from left to right, is DMV Administrator Roger Cross, and Tom Vicini, GM of CARMAX Kenosha.

The Carmax Group was awarded the Right Way Award for the third quarter. The Carmax Group includes: Carmax Auto Superstores, Carmax Auto Mall and Kenosha Automotive. The Right Way Award recognizes auto dealers who set an example of the right way to do business in Wisconsin.

The dealership was chosen for a number of reasons, including excellent record keeping, resolving complaints quickly and satisfactorily and handling license renewals with speed and efficiency. Furthermore, the Carmax Group strongly supports its community through active participation in the United Way at the local and national level. The Carmax group consistently strives to do business, *The Right Way*.



Pictured above is the CARMAX team receiving the Right Way Award.

News

Abbreviated salesperson number

The Department will now accept an abbreviated salesperson's license number on the motor vehicle purchase contract. The abbreviated salesperson's license number, for the purpose of identification on the purchase contract, must be comprised of the first eight characters of the official license number.

Trans 139.05(2)(d) requires the salesperson to include their name and license number on the motor vehicle purchase contract. Because the salesperson's license number is typically their driver license number, the Department and motor vehicle dealers are concerned about privacy issues and the potential for identity theft. Using an abbreviated salesperson's license number on the motor vehicle purchase contract will not impact the ability of the Department to determine the identity of the salesperson, and may reduce the possibility of identity theft.

Hopefully, this policy change will alleviate some of your concerns about identity fraud. If you have suggestions for addressing other regulated areas of your business that may be prone to fraud, please contact us.

Selling Mini Coopers requires the proper franchise agreement. If you have a new Mini Cooper for sale on your lot, chances are you are violating Wisconsin's franchise law. International Mini of West Allis is currently the only dealer in Wisconsin franchised to sell new Mini Coopers. If you have a used Mini, please refer to Trans 137 to be sure it meets the definition of used under Wisconsin law (or refer to the answer to the "You Be the DOT" question on page 7).



DMV to return incomplete dealer applications

In an effort to expedite its service to customers, DMV began returning applications that are missing fees, information, etc. to dealers to complete and return for processing. In the past, letters were created within the DMV system indicating what item(s) were missing. Not having to create these formal application pending letters will help save time and allow DMV to focus on those applications ready to complete. This policy will particularly benefit dealers who submit complete applications.

Advertising flyer to be mailed to dealers

How are you today? In most cases, no one really wants to know how you really are or all your aches and pains. This phrase really means hello. This is a phrase that says one thing but means another. That's advertising in a nutshell. When you are advertising the words must be clear and mean exactly what they say.

Lately, the largest violation in advertising relates to Section 218.01(3), stats., which prohibits advertising containing any statement or representation with regard to the sale or financing of motor vehicles which is false, deceptive or misleading. When determining whether an ad is misleading we consider how the least sophisticated consumer would understand it. A statement can be true and still be misleading. Consider the following statements:

Pick a Vehicle, Pick A Payment! This is a phrase that is misleading and may lead the consumer to believe there are no restrictions to their choice of vehicle.

All credit applications will be accepted. This statement leads the consumer to believe they will receive credit no matter what! Of course, they won't all be approved, but anyone who fills out an application will be able to hand it in to the dealership.

We'll pay off your current trade – no matter what you owe! The fact is, if the consumer adds what is owed on the trade-in to the new loan to buy a car from you, you will write the check to pay off the trade. The consumer is still paying off

the original loan. The statement may be truthful in a literal sense, but definitely misleading!

No reasonable offer will be refused or make your best deal. Both of these statements lead the consumer to believe they can pay whatever they want to pay for a vehicle.

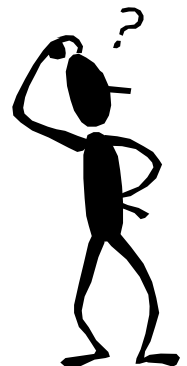
We created a flyer on "Advertising Tips" which will be sent with all retail dealer license renewals. If you have questions on dealer advertising, please contact the Dealer Section at 608-266-1425. (Nancy Passehl)

You be the DOT!

Compare how you would handle a real-life complaint situation with the actual resolution made by the Dealer Section.

Legal sale without a franchise?

A franchised Volvo dealer bought a PT Cruiser from a Wisconsin used car dealer who had purchased the vehicle at auction from an Indiana dealer. When the Volvo dealer bought the vehicle, it was of the current model year, had been titled to the Indiana dealer, and had 150 miles on it. The Volvo dealer completed an inspection, displayed a Wisconsin Buyers Guide on the vehicle, and offered it for sale as a used vehicle. A Chrysler dealer filed this complaint against the Volvo dealer (How would you handle this complaint? Turn to page seven for the Dealer Section resolution)



News

Photocopies and Faxed Copies of Lien Releases -

Auctions. Auctions may choose to accept faxed copies of lien releases from financial institutions that are received on financial institution letterhead or emails directly from the financial institution with a contact name and title. Once there is a retail sale, the certifying dealer will sign the statement on the MV11 that all liens have been cleared.

Service fees made simple. Wisconsin dealers have been able to charge a reasonable service fee for a few months now. While most dealers have taken a cautious approach, and thoroughly researched the guidelines for proper implementation of the service fee, there have been a few problems. One obvious problem stems from the incorrect disclosure of the fee. A recent case with Dealer Section Investigators involved a dealer's failure to properly disclose the service fee on the purchase contract. All improperly disclosed service fees were ultimately refunded to the respective customers.

Service fees on the motor vehicle purchase contract

WisDOT and the Wisconsin Department of Financial Institutions have collaborated to determine the proper disclosure of a service fee on the Wisconsin motor vehicle purchase contract. For all vehicles sold, the service fee must be itemized above line three on the prescribed purchase contract, in which case the service fee would become part of the "cash price" of the vehicle. The service fee should be disclosed on line 1a (see example below). On old forms that do not have line 1a, the fee can be disclosed above line one, provided it is still included as part of the cash price (New forms must be used by August 1, 2003). This disclosure requirement was made *after* the initial information was published regarding service fees. Disclosing any service fee as part of the cash price is required due to provisions of law regarding the retail installment contract. The service fee disclosure on the Wisconsin Buyers Guide also changed, and the new forms are required as of August 1, 2003 (see sample at the bottom of this page).

When **disclosing a service fee**, dealers should not refer to it as a Wisconsin Department of Transportation approved fee. The following statement, for example, is **not** acceptable: "A Wisconsin Department of Transportation approved service fee of \$50 will be charged to every transaction."

1. Dealer Retail Price		
1a. Service Fee		
2. Discount		
3. Cash Price (1+1a -2)		

Recent legislation impacts **hail-damaged vehicles**. A select group of vehicles that would formerly have earned the brand "salvage" on their titles will now be branded "hail-damaged" under a new law that took effect November 1, 2002. The new law reduces the need for time-consuming salvage inspections for vehicles with superficial hail damage and non-structural repairs.

The "hail-damaged" title brand will now be used instead of the "salvage" brand for vehicles that are all of the following:

- Less than 7 years old
- Damaged solely by hail
- Damaged to the extent that repair costs exceed 70% of the vehicle's fair market value
- Repaired without replacing any exterior parts.

Hail-damaged vehicles meeting the criteria above, but repaired with exterior replacement parts, will continue to have their titles branded "Salvage," rather than "Hail-damaged," and will require a salvage inspection. Insurers no longer need to request a salvage title for hail-damaged vehicles that meet the criteria listed above.

Dealers allowed to sell manufacturer certified used vehicles without a franchise agreement.

While, for example, GM will not allow a dealer to display or sell GM Certified Used Vehicles at a non-GM dealership, nothing in Wisconsin law prohibits this. Manufacturers are able to establish any guidelines they chose, but the state does not require dealers to have a franchise agreement to sell a certified used vehicle.

Use caution when taking in a vehicle on trade.

A number of Milwaukee area dealers were recently stung by individuals who trade-in a vehicle, and steal it back later that night. These specific cases involved a 1996 Impala SS with a swapped VIN plate. While the VIN may match the title, it is important to thoroughly inspect a vehicle to be certain you are getting what you pay for.

Third party registration agent audits

WisDOT initiated on site audits for third party agents that process titles and plates. The audits will supplement an in-house audit program already in place for agents, including dealerships that issue titles and metal plates at the time of sale, and non-dealerships that issue temporary license plates. Audits, performed by WisDOT dealer investigators, will generate a written report notifying agents of any changes needed to conform to program standards. (Contact Kevin Konopacki)

WISCONSIN BUYERS GUIDE

Information on this guide is based on what the dealership can find using reasonable care. You may learn more by following the suggestions on the back.



Year, Make, Model	Engine: ___Size___No.Cyl___	Price \$
VIN	Drive Type <input type="checkbox"/> FWD <input type="checkbox"/> RWD <input type="checkbox"/> 4WD	Service Fee \$
Dealership Name	<input type="checkbox"/> Automatic <input type="checkbox"/> Manual ___Speed	Stock Number





Dealer Ed_101

Dealer Alerts

Advertising Advice

Policy Briefing

Paperwork Pointers

If your customer has a **plate to transfer**, make certain you show it correctly. There are now a lot of plates with the numbers FIRST. DMV processors are finding the plate to transfer is frequently shown backwards (letters before numbers on the new plates).

Effective March 1, 2002, the **issuance fee** for some of the special license plates issued by the Department of Transportation/ Special Plates Unit in Madison increased to \$15. An issuance fee was added to the non personalized Endangered Resources plate. If you have applications for the following special license plates, and they do not indicate the \$15 issuance fee is required, please replace them with current applications as soon as possible:

Amateur Radio (AMA) MV2157, Collector Special (CLS), Wisconsin National Guard (WNG) MV2929, Ex-POW, second and subsequent plates only (XPW), Civilian Group (CVG) MV2652 which includes Firefighter, Emergency Medical Technician (EMT) or Rescue Squad Member, Military Group (MLG) MV2653 (the specific plate choices did not change) and the Endangered Resources (DNR) MV2858. The next update of the MV11's will show the increased fees for the CLS and second or subsequent XPW plates. Updated specific plate forms may be obtained from WisDOT stores or may be downloaded from <http://www.dot.state.wi.us/dmv/plates.html>. Please direct any questions to Dennis Barr at 608.261.2575 or Lois Gartland at 608.264.7254.

Licensed salvage dealers must have the appropriate **storm water permit** issued by the Department of Natural Resources. For additional information regarding the proper permit, please visit the DNR web site at: <http://www.dnr.state.wi.us/org/water/wm/nps/contact.htm>. Or call the DNR central office in Madison at: 608.264.6273.

Starting January 1, 2003, a **sales and use tax** of one-half percent (0.5%) will be collected in Green County. County sales and use taxes due on vehicles purchased from Wisconsin licensed dealers are based on the delivery date and sent directly to the Department of Revenue by the dealer.

Canadian vehicles. There has been an increase in complaints regarding Canadian vehicles brought in to the United States for sale. Grey market Canadian vehicles (those not manufactured to US specifications) may not be covered by warranty here in the US. The purchase contract needs to show 'no warranty' for these transactions. If you show there is a remaining warranty, and later learn there is not, you will be required to honor it.

Top ten tips from the DMV Title and Registration Unit

10. The \$3.00 temp plate is free to Wisconsin customers. Out-of-state customers must pay \$3.00 for a temp plate.
9. When completing DMV forms, please don't forget the owner social security number or drivers license number, and be sure it's typed correctly.
8. Title applications with a tribal plate to transfer or issue need to go to the tribal offices first.
7. Make sure to use a Secured Party number when listing a lien to perfect.
6. Do not write above the line that says "DON'T WRITE ABOVE THIS LINE."
5. Don't forget to list the color of the vehicle on the application using the acceptable list of colors.
4. If selling a vehicle to a minor, make sure to have the legal guardian complete the consent to purchase. The transaction cannot be completed without it.
3. An MV2790, Trustee's Statement for Certificate of Title, is needed every time a vehicle is being titled to or sold by a trust. This includes corporate trusts in the business of leasing vehicles such as DL Peterson Trust, VAULT, and DCFS (Daimler-Chrysler Financial Services) Trust.
2. The fee to transfer title is now \$25.
1. Copies of MV11 Application for Title and Registration forms are not acceptable. You must use an original. The dealer portion of the MV11 must include your dealer name, dealer license number, phone number and must be signed.

Effective 10/1/2002, motorcycles can no longer be titled as **REPLICAS**. These vehicles will now be titled as "HOMEMADE" vehicles. Prior to titling, they will require an inspection by a certified salvage inspector, for which there is no fee. The model year of the vehicle will be the year the vehicle passes inspection. For example, if the vehicle is inspected on 10/31/2002, it will be titled as a "2002 HMADE".

Any previously WI titled motorcycle with the REPLICA notation will remain titled as the year and make currently displayed on the WI title. Any subsequent title transfer requests for REPLICA motorcycles will continue to reflect the REPLICA year and make information. This law change applies to new applications for title received by WisDOT on October 1, 2002 or later. If you have questions call 608.266.1466. For Hobbyist plate information call 608.266.3041.

Unlicensed individuals cannot purchase a vehicle from a wholesale auction. We know that times are tough, but dealers who take retail buyers to the auction are risking their license.

Citations and Criminal Charges

Anthony Motors, Kenosha -- One citation issued for lending a registration plate to an unauthorized person and one citation issued for failing to transfer title within seven business days.

Auto Mart, Milwaukee -- three citations issued for failing to transfer title within seven business days.

Badger Auto Sales, Milwaukee -- Default judgment issued for 10 citations due to logbook violations.

Corner Cycle, Cadott -- Pleaded no contest and was fined \$151 for failing to transfer title within seven business days.

Norwest Honda, Rice Lake -- Pleaded no contest and was fined \$151 for failing to transfer title within seven business days.

Secoy, Gary, Beloit -- Two citations issued for failing to transfer title as the result of an unlicensed dealer investigation.

Serier, Duane, Clayton -- Pleaded no contest and was fined \$500 for acting as a motor vehicle dealer without a license.

Silva, Fernando, Milwaukee -- 10 citations issued for acting as a motor vehicle dealer without a license and 10 citations issued for failing to transfer title as the result of an unlicensed dealer investigation.

Wilks, Kirby, Milwaukee -- One citation issued for acting as a motor vehicle dealer without a license and one citation issued for failing to transfer title as the result of an unlicensed dealer investigation.

Wilks, Reginald, Milwaukee -- One citation issued for acting as a motor vehicle dealer without a license and one citation issued for failing to transfer title as the result of an unlicensed dealer investigation.

Answer—You be the DOT

(from page 2)

The PT Cruiser did not meet the Trans 137 definition of a used vehicle. Therefore, it was a “new” vehicle for the purposes of the Wisconsin franchise law, and the Volvo dealer could not legally offer it for sale without a Chrysler franchise. Trans 137 says a vehicle is not considered used unless:

- 1) it has been “privately titled” or,
- 2) has been operated more than 6,000 miles, or
- 3) operated more than 4,000 miles and owned more than 120 days by the dealer, or
- 4) has sustained damage in transit and has been acquired by the motor carrier, or
- 5) is of a previous model year.

A vehicle is considered “privately titled” if it is acquired for purposes other than lease, rental or resale by someone who is not a manufacturer, converter, distributor, wholesaler, dealer, fleet owner or lease or rental company.

The Volvo dealer returned the vehicle to the used car dealership where he bought it. That dealership in turn returned it to the Indiana dealer. If the deal could not have been undone, the Volvo dealer would have been required to title the vehicle, pay sales tax, display regular Wisconsin plates, and hold the vehicle until it met the definition of a used vehicle before selling it. Alternately, the Volvo dealer could have sold the vehicle to a franchised Chrysler dealer, or titled and leased it through an in-house leasing company.

Use the links below to find important business information:

Vehicle registration fees:

www.dot.wisconsin.gov/drivers/vehicles/veh-fees.htm

Processing times for DMV products:

www.dot.wisconsin.gov/drivers/vehicles/status.htm

Dealer and motor vehicle business information:

www.dot.wisconsin.gov/business/dealers/index.htm

Dealer forms:

www.dot.wisconsin.gov/business/dealers/dealer-forms.htm

We're on the Web!
www.dot.wisconsin.gov



Enforcement Actions

AAA Motor Sales, Hartford and Milwaukee -- A Special Order was issued for failing to have titles available for vehicles offered for sale, failing to complete Wisconsin Buyers Guides for vehicles offered for sale, and failing to maintain records on the licensed premises.

Anthony Motors, Kenosha -- A Special Order was issued for failing to maintain and complete a temporary plate logbook, and lending temporary plates to persons not authorized to use them.

Auto Mart, Milwaukee -- A Special Order was issued for failing to have titles available for vehicles offered for sale and for failing to submit title applications within 7 business days.

Lad and Lassies, Hazel Green -- A Special Order was issued for improperly obtaining Wisconsin Title Only in the dealership's name and for consigning motor vehicles with another dealer.

Premier Automobile Leasing -- An Order Revoking License was issued for selling vehicles for which they were not franchised, failing to have a written agreement for vehicles on consignment, and failing to have all persons involved in the selling of motor vehicles properly licensed. In addition, Premier agreed to pay a \$14,500 civil forfeiture (not including court costs) in Milwaukee County and was issued a conditional license that will only allow

them to dispose of their current leased vehicles to the lessee at the end of the lease.

Royal Enterprises, West Allis -- A Special Order was issued for failing to obtain licenses for persons involved with the sale of motor vehicles, failing to properly maintain required motor vehicle logbook, and allowing an individual to purchase vehicles with his own funds using Royal Enterprises license.

Sure Value Auto Sales, Inc., Mosinee -- An Order Suspending License from 11-18-02 to 11-23-02 was issued for allowing an individual to purchase vehicles with his own funds using Sure Value Auto Sales license, and failing to maintain the proper books, records and files necessary to conduct business.

United Auto Sales, Inc., Kenosha -- An Order Suspending License from 09-28-02 to 10-01-02 was issued for failure to complete Wisconsin Buyers Guides for vehicles offered for sale and failure to display a required dealer sign at the licensed location.

Van Horn Hyundai, Inc., Sheboygan -- An Order Suspending License for one day (September 2, 2002), and a \$3000 forfeiture were issued for giving three false statements in applications for title and registration.



We're on the Web!
www.dot.wisconsin.gov



**Wis. Dept. of Transportation
Dealer Section
P.O. Box 7909, Room 806
Madison, WI 53707-7909**



**PRESORTED
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